

Appl. No. 10/687,190

Docket No. 58085-010204

Amdt. dated December 3, 2004

Reply to Office action of August 4, 2004

### REMARKS/ARGUMENTS

Applicants have amended claims 1-4 to correct any grammatical errors and informalities. Also applicants have included new claims 5-9. Applicants submit that the claims are in condition for allowance.

#### *Priority*

The Examiner has stated that the parent disclosure of U.S. Patent 6,173,209 does not adequately describe cellular telephones. Applicants disagree with the Examiner's characterization of parent disclosure of U.S. Patent 6,173,209. Also, the claims are not limited to cellular telephones.

#### *Claim Objections*

Claim 1 has been amended to correct minor editorial problems. Applicants submit that these amendments are fully responsive to the Examiner's objections with respect to claim 1.

#### *Claim Rejections - 35 U.S.C. § 112*

The Examiner has rejected claim 3 under 35 U.S.C. section 112, second paragraph, for insufficient antecedent basis for the limitation "the environment." Claim 3 has been amended to delete "the environment." Applicants submit that this amendment is fully responsive to the Examiner's concerns with respect to claim 3.

#### *Claim Rejections - 35 U.S.C. § 103*

The Examiner has rejected claims 1-4 under 35 U.S.C. section 103(a) as being unpatentable over Waytena et al. U.S. Patent No. 5,978,770, in view of Croughwell et al. U.S. Patent No. 5,966,654. Applicant submits that amended claims 1, 2, 3, and 4 are not rendered obvious by Waytena in view of Croughwell. The Examiner has not met his burden to prove a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, one of the basic criteria that must be met is that the prior art reference (or references when combined) must teach

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or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). The combinations of references cited by the Examiner fail to teach the distinctive features of Applicants' invention as at least defined by independent claims 1, 5 and 6. In particular, a departure time is not taught by Waytena in view of Croughwell. Both Waytena and Croughwell refer to arrival times to events. A departure time not the same as an arrival time. Furthermore, Waytena in view of Croughwell fails to teach or suggest a computer for regulating numbers of persons in the first location as related to the second location. The Examiner has not provided evidence of the teaching or suggestion of any of these limitations.

Finally, Waytena in view of Croughwell does not suggest the desirability of modifying the system to include departure times. Both Waytena and Croughwell are concerned with systems that control arrival times. It would not be apparent to one of ordinary skill in the art to use the teachings of Waytena for systems concerning departure times.

Thus, applicants submit that independent claim 1 is not rendered obvious by Sim, and therefore, the rejection to independent claim 1 should be withdrawn. Claims 2, 3 and 4 depend from claim 1. Accordingly, claims 2, 3 and 4 are not rendered obvious by Sim. Therefore, Applicant also submits that the rejections to dependent claims 2, 3 and 4 should also be withdrawn.

Regarding Claims 5, 6, 7, 8 and 9, these new claims simply further define the invention and also concern departure times. Additionally, the elements of Claims 5, 6, 7, 8 and 9 are all supported in the original as-filed application and do not present new matter.

Applicants have complied with all requirements made in the above referenced communication. Accordingly, applicants respectfully request that a timely Notice of Allowance be issued in this case. Should matters remain, which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone the Applicants' undersigned agent.

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**Fee Calculation:**

Basic Filing Fee					Utility filing fee		\$	0.00	
Extra Claim Fees		Extra Claims		Fee					
Total Claims	9	-	20	=	0	x	\$ 18.00	=	\$ 0.00
Independent Claims	5	-	3	=	2	x	\$ 88.00	=	\$ 176.00
Multiple Dependent Claim							\$ 150.00	=	\$ 0.00
Subtotal								\$	176.00
Additional Fees									
Surcharge – late filing fee							\$	0.00	
Extension for reply within the <u>first</u> month							\$	110.00	
Information Disclosure Statement (IDS)							\$	0.00	
Subtotal								\$	110.00
TOTAL AMOUNT OF PAYMENT								\$	286.00

The Director is authorized to charge \$286.00 and any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to Deposit Account Number 50-2638, Deposit Account Name Greenberg Traurig, LLP. Please ensure that the Attorney Docket Number is referred to when charging any payments or credits for this case.

Respectfully submitted,

GREENBERG TRAURIG, LLP

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Date December 3, 2004

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